

NATIONAL  
INDIAN  
GAMING  
COMMISSION

MAY - 3 1995

Alvin Moyle, Chairman  
Fallon Paiute-Shoshone Tribes  
8955 Mission Road  
Fallon, Nevada 89406

Dear Chairman Moyle:

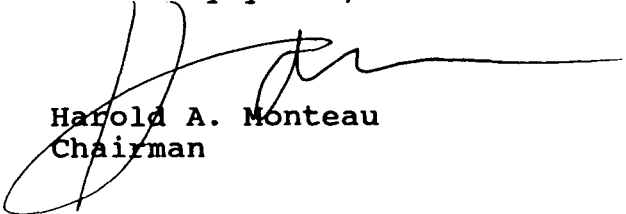
This letter responds to your request to review and approve the gaming ordinance adopted on April 11, 1995, by the Fallon Paiute-Shoshone Tribes (Tribes), in Resolution 95-F-043. This letter constitutes approval of Resolution 95-F-043 under the Indian Gaming Regulatory Act (IGRA).

Under the IGRA and the regulations of the National Indian Gaming Commission (NIGC), the Chairman is directed to review ordinances with respect to the requirements of the IGRA and the implementing regulations. Thus, the scope of the Chairman's review and approval is limited to the requirements of the IGRA and the NIGC regulations. Provisions other than those required under the IGRA or the NIGC regulations that may be included in a tribal ordinance are not subject to review and approval. Also, this letter does not constitute approval of specific games.

With the Chairman's approval of the Tribes' gaming ordinance, the Tribes are now required to conduct background investigations on their key employees and primary management officials. The NIGC expects to receive a completed application for each key employee and primary management official pursuant to 25 C.F.R. § 556.5(a) and an investigative report on each background investigation before issuing a license to a key employee or primary management official pursuant to 25 C.F.R. § 556.5(b).

Thank you for submitting the ordinance of the Tribes for review and approval. The NIGC staff and I look forward to working with you and the Tribes in implementing the IGRA.

Sincerely yours,



Harold A. Monteau  
Chairman

# FALLON PAIUTE-SHOSHONE TRIBES



8955 Mission Road  
Fallon, Nevada 89406  
(702) 423-6075 FAX (702) 423-5202

Resolution No. 95-F-043

**BE IT RESOLVED BY THE GOVERNING BODY OF THE FALLON PAIUTE-SHOSHONE TRIBES THAT:**

**WHEREAS, the Fallon Business Council is the recognized governing body of the Fallon Paiute-Shoshone Tribes with the responsibility to exercise the privileges and powers of self-government, to conserve and develop our resources, and to secure the social and economic well-being of our Tribes; and**

**WHEREAS, the Tribe has recently been notified by the National Indian Gaming Commission that its gaming ordinance adopted by Resolution #94-F-083, and amended by Resolution #95-F-021, has certain deficiencies, particularly relating to audits and the approval process for key employees and primary management officials; and**

**WHEREAS, the Tribes wish to pass a new ordinance which addresses all issues identified thus far by the Commission; and**

**NOW THEREFORE BE IT RESOLVED, that the Fallon Business Council hereby rescinds the gaming ordinance adopted by Resolutions #94-F-083, and #95-F-021, and adopts the Tribal gaming ordinance attached to and made part of this resolution; and**

**BE IT FURTHER RESOLVED, that the Chairman or Vice-Chairman is instructed to submit the ordinance for approval by the National Indian Gaming Commission.**

## C E R T I F I C A T I O N

At a duly held meeting of the governing body of the Fallon Paiute-Shoshone Tribes, consisting of seven members of which four (4) constitutes a quorum, there was present on the 11 day of APRIL 1995, and voted 5 in favor, 0 against, and 1 abstaining, in the adoption of the foregoing resolution, according to the powers vested by the Fallon Paiute-Shoshone Tribes' Constitution and By-Laws.

A handwritten signature in dark ink, appearing to read "Waynette Austin", written over a horizontal line.

Waynette Austin, Secretary/Treasurer  
Fallon Business Council

**FALLON PAIUTE-SHOSHONE TRIBE**

**TRIBAL GAMING ORDINANCE**

**[APRIL 11, 1995]**

## **CHAPTER 1: LEGISLATIVE FINDINGS AND PURPOSE**

**SECTION 101. Authority.** The Fallon Business Council is the recognized governing body of the Fallon Paiute-Shoshone Tribes with the responsibility to exercise the privileges and powers of self-government, to conserve and develop our resources, and to secure the social and economic well-being of our Tribes. This Ordinance is enacted on the basis of inherent sovereign tribal powers delegated to the Business Council under art. VI, § 1 of the Tribes' Constitution and Bylaws, and the Indian Gaming Regulatory Act, Pub. L. 100-497, 25 U.S.C. §§ 2701 et seq.

### **SECTION 102. Findings.**

**1. Self-determination.** An explicit goal of federal Indian policy, as enunciated among other places in the Indian Gaming Regulatory Act, is to promote tribal economic development, self-sufficiency, and strong tribal government. The Tribes are deeply committed to these values.

**2. Economic pressures.** The Tribes need additional revenues to assist them in meeting their governmental responsibilities.

**3. Gaming as an economic enterprise.** Gaming is an appropriate subject for a tribal enterprise because:

**a.** Congress has found that Indian tribes have the right to regulate gaming activity on Indian lands if the gaming activity is not specifically prohibited by federal law and is conducted within a state which does not, as a matter of criminal law and policy, prohibit such activity. 25 U.S.C. § 2701(5).

**b.** Congress has provided a statutory basis for the operation of gaming by Indian tribes as a means of promoting tribal economic development, self-sufficiency, and strong tribal government. 25 U.S.C. §§ 2702(1).

**c.** Nevada law is not directly applicable on the Reservation, but federal law depends on the policy underlying state gaming laws. In Nevada, gaming is not only lawful; it is the state's principal economic activity. Similar gaming operations operated by the Tribes would not conflict with federal law.

**SECTION 103. Purpose.** The purpose of this Ordinance is to provide for the sound regulation of all gaming activities within the Tribes' jurisdiction, to prevent improper or unlawful conduct in the course of such activities, and to promote tribal economic development, self-sufficiency, and strong tribal government.

## **CHAPTER 2: GENERAL PROVISIONS**

**SECTION 201. Definitions.** For purpose of this Ordinance:

**1. Act.** "Act" means the Indian Gaming Regulatory Act, Pub. L.100-497, 25 U.S.C. §§ 2701 et seq.

**2. Agency.** "Agency" means the Fallon Tribal Gaming Agency established by this Ordinance.

**3. Class I gaming.** "Class I gaming" has the meaning set forth in the Act at 25 U.S.C. § 2703(6) and 25 CFR § 502.2. It means social games played solely for prizes of minimal value or traditional forms of Indian gaming engaged in by individuals as a part of, or in connection with, tribal ceremonies or celebrations.

**4. Class II gaming.** "Class II gaming" has the meaning set forth in the Act at 25 U.S.C. § 2703(7) and 25 CFR § 502.3. In general, it includes gaming such as bingo, pull-tabs, lotto, punch boards, tip jars, instant bingo, and other games similar to bingo. It also includes certain card games (although not blackjack (21) or other "banking" card games) to the extent such games are played in conformity with state law.

**5. Class III gaming.** "Class III gaming" has the meaning set forth in the Act at 25 U.S.C. §§ 2703(8) and 25 CFR § 502.4. It includes all forms of gaming that are not Class I or Class II gaming.

**6. Commission.** "Commission" means the National Indian Gaming Commission established by the Act at 25 U.S.C. § 2704.

**7. Compact.** "Compact" means any gaming compact as described in the Act at 25 U.S.C. § 2710(d) between the Tribes and the State which has been fully approved under the Act.

**8. Council.** "Council" means the Fallon Business Council.

**9. Key Employee.** "Key employee" means:

- a. A person who performs one or more of the following functions:
  - i. Bingo caller;
  - ii. Counting room supervisor;
  - iii. Chief of security;
  - iv. Custodian of gaming supplies or cash;
  - v. Floor manager;
  - vi. Pit boss;
  - vii. Dealer;
  - viii. Croupier;
  - ix. Approver of credit;
  - x. Custodian of gambling devices including persons with access to cash and accounting records within such devices;

b. If not otherwise included, any other person whose total cash compensation is in excess of \$50,000 per year; or

c. If not otherwise included, the four most highly compensated persons in the gaming operation.

**10. Net Revenues.** "Net revenues" means gross gaming revenues of an Indian gaming operation less: (a) amounts paid out as, or paid for, prizes; and (b) total gaming-related operating expenses, excluding management fees.

**11. Ordinance.** "Ordinance" means this Tribal Gaming Ordinance, including any amendments.

**12. Primary management officials.** "Primary management official" means:

- a. The person having management responsibility for a management contract;
- b. Any person who has authority to (i) to hire and fire employees; and (ii) to set up working policies for the gaming operation; or
- c. The chief financial officer or other person who has financial management responsibility.

**13. Reservation.** "Reservation" means the Fallon Indian Reservation or Colony as now or hereafter constituted.

**14. State.** "State" means the State of Nevada, its authorized officials, agents, and representatives.

**15. Tribes.** "Tribes" means the Fallon Paiute-Shoshone Tribes and their authorized officials, agents, and representatives.

### **CHAPTER 3: AUTHORIZATION OF TRIBAL GAMING**

**SECTION 301. Tribal gaming authorized.** The Council hereby authorizes the establishment of one or more tribally-owned gaming operations to offer class II and/or class III gaming under the Ordinance. The Council shall determine the form of gaming to be offered, the number of gaming establishments, and the size and mix of games at each establishment.

**SECTION 302. Tribes to be sole gaming proprietor.** The Tribes shall have the sole proprietary interest in and responsibility for the conduct of any class II or III gaming activity on the Reservation. This provision shall not preclude the Tribes from entering into a lawful management contract under 25 U.S.C. § 2711.

**SECTION 303. Separate license for each location.** The Tribes shall issue a separate license to each place, facility, or location where class II or III gaming will be allowed.

**SECTION 304. Negotiation of compact authorized.** The Chairperson of the Council is directed to pursue negotiation of a class III compact with the state. No such compact shall be in effect until it is specifically approved by the Council.

**SECTION 305. Compliance with law; inclusion of compact.**

**1. Applicable law.** All class II and III gaming operations on the Reservation shall be conducted in accordance with the Act, the Commission's regulations, other federal law, tribal law (including this Ordinance and all regulations and orders of the Agency), and any approved compact. This Ordinance shall be construed in a manner which conforms to applicable law.

**2. Incorporation of compact.** Upon approval of any compact, such compact shall be incorporated into this Ordinance. In the event any inconsistencies between the compact and any other provision of this Ordinance, the compact shall govern.

#### **CHAPTER 4: FALLON TRIBAL GAMING AGENCY**

**SECTION 401. Agency established.** The Council hereby establishes a tribal agency to be known as the Fallon Tribal Gaming Agency, which shall be responsible for the successful, safe, lawful, and honest operation of the Tribes' class II and III gaming operations on the Reservation.

#### **SECTION 402. Structure of Agency.**

**1. Number.** The Agency shall consist of three members, one of whom shall be designated by the Council as chairman.

**2. Appointment.** The three members of the Agency and one alternate shall be appointed by the Council from tribal members whom the Council deems qualified, giving due weight to the candidates' education, experience, and integrity. Members of the Council may serve as members of the Agency.

**3. Term.** Initial appointments to the Agency shall be for the following terms: Chairman -- three years; one member -- two years; one member -- one year; alternate member three years. Thereafter, all appointments shall be for three-year terms, provided that if a vacancy occurs for any reason, the Council shall appoint a replacement for the remainder of the replaced person's term. Agency members may only be suspended or removed by a vote of at least four members of the Council (with the Chairman of the Council entitled to vote), for good cause.

**4. Registered Agent.** The Chairman of the Agency shall be the agent for service of process pursuant to 25 CFR § 522.2(g). Until a Chairman is appointed, the Chairperson of the Council shall serve as agent.

**5. Gaming manager.** The Council shall also appoint a gaming manager, who shall report to the Agency and the Council, and shall have the powers and duties described in section 405 and elsewhere in this Ordinance. The gaming manager shall be a salaried employee whose salary shall not be dependent on a percentage of gaming revenues. The gaming manager shall serve at the pleasure of the Council.

#### **SECTION 403. Powers and duties of Agency.** The Agency shall have the following powers and duties:

**1. Oversight.** The Agency shall have primary responsibility for oversight of the Tribes' class II and III gaming operations. The Agency shall supervise the gaming manager and any contract manager, and shall report to the Council.

**2. Inspection.** The Agency may employ inspectors (all of whom shall be licensed as gaming employees under this Ordinance) who may be present at any gaming facility during any hours of operation, and who shall be under the sole supervision of the Agency and not under the supervision of a contract manager.

Such inspectors shall have unfettered access to all areas of the gaming facilities at all times, including locked or secured areas. Personnel employed by the gaming operation or a contract manager shall provide such inspectors immediate access to all such areas on request at any time. Such inspectors shall report to the Agency regarding any failure by the gaming operation to comply with any applicable law, including this Ordinance or any compact.

**3. Protection of public health, safety, and the environment.** The Agency shall assure that the construction, maintenance, and operation of any tribal Class II or Class III gaming facility shall at all times be conducted in a manner which adequately protects public health, safety, and the environment, and complies with all applicable federal and tribal laws. In particular, the Agency shall prepare a plan for the protection of public safety and the physical security of patrons in each of its gaming facilities, setting forth the respective responsibilities of the Agency, the security department of the gaming operation, any tribal police agency, and if appropriate, any federal, state, or local police agency. The Agency shall review and approve floor plans and surveillance systems for each gaming facility and may confer with other governmental or private parties regarding the adequacy of such plans and systems. The Agency shall enforce the health and safety standards applicable to the gaming facilities in accordance with this Ordinance. Prior to the opening of any gaming facility, a gaming operation shall obtain a certificate of compliance from the Agency, which shall be issued upon a determination that the gaming facility complies with such standards.

**4. Resolution of complaints.** All written complaints from any person regarding any aspect of gaming operations shall be reviewed by the Agency and retained for at least 5 years. The Agency, including on-site inspectors, may assist in seeking voluntary resolution of any complaints. The Agency may receive any complaint from an employee of the gaming operation or any member of the public who claims to be adversely affected by an act or omission of the gaming operation or any person associated with it which is alleged to be unlawful or improper and may require such remedial action as it deems appropriate to bring the gaming operation into compliance. The Agency may for this purpose, in its sole discretion, conduct a hearing and receive evidence with regard to such complaint if it deems an evidentiary proceeding useful to resolve such complaint. Notwithstanding the above, licensing disputes, patron disputes regarding particular wagers, and disputes regarding the imposition of penalties, shall be resolved as set forth in chapter 8 of this Ordinance.

**5. Investigations.** The Agency may on its own initiative investigate any aspect of the gaming operation to protect the public interest in the integrity of such gaming activities and to prevent or remedy improper or unlawful conduct in the course of such gaming activities. The Agency shall investigate any report of a failure of the gaming operation to comply with applicable law including the provisions of any compact, and may require the gaming operation to take any corrective action the Agency may determine appropriate. The Agency may compel any licensee or person employed by or doing business with the gaming operation to appear before it and to provide such information, documents, or other materials as may be in their possession or control to assist in any such investigation.



**6. Background investigations; gaming licenses.** The Agency shall conduct, or have conducted, any background investigations required or permitted under applicable law, and shall issue, suspend, and revoke all licenses pertaining to class II or III gaming.

**7. Coordination with other agencies.** The Agency shall coordinate its activities and cooperate with other relevant agencies, including the Commission and other federal agencies, and any agencies of the State with which the Tribes cooperate pursuant to a compact. The Agency may provide any information to such agencies which must or may be provided under applicable law.

**8. Coordination with private entities.** The Agency shall supervise, oversee, and, to the extent appropriate, coordinate its activities with, any contract manager, and any other contractors, vendors, suppliers, or other private entities with any involvement in any aspect of gaming operations.

**9. Regulations.** The Agency may promulgate, review, and revise as necessary regulations, rules, and procedures to govern and facilitate the operation and management of the gaming operation in accordance with applicable law. Such regulations, rules, and procedures shall be subject to rescission or amendment by the Council.

**10. Compact.** The Agency shall carry out each of the responsibilities and duties set forth for the Agency in a Compact.

**11. Establishment of list of barred persons.** The Agency may bar any person from working or gaming at the Tribes' gaming facilities if in the view of the Agency such person's history, associations, reputation, or habits poses a threat to the integrity of tribal gaming activities. This list may be shared with other public or private agencies under subsections 7 and 8 above.

**12. Technical standards.** The Agency shall promulgate, review, and revise as necessary technical standards and rules of each game of chance operated by the Tribes.

**13. Penalties.** The Agency may impose penalties for violations of this Ordinance or any compact in accordance with chapter 9 of this Ordinance.

**14. Legal remedies.** The Agency may in its own name bring any civil action or criminal complaint in the courts of the Tribes, State or the United States to enforce the provisions of this Ordinance, the Act or any compact, or to enjoin or otherwise prevent any violation of this Ordinance, the Act, or compact, occurring on the Reservation. However, the Tribes, including the Agency and any of its agents acting within their authority shall retain sovereign immunity from suit in any court or tribunal, including immunity from counterclaims, except as specifically provided otherwise in this Ordinance.

**15. Emergency action by Agency members.** If emergency action is required to protect the public interest in the integrity of gaming operations, and there is insufficient time to convene a meeting of the Agency, the chairman of the Agency, or any other member of the Agency acting in the absence of the

chairman, may issue in the name of the Agency any order which the Agency has the power to issue to any employee or contractor of the gaming operation or to any other person within the jurisdiction of the Tribes to take any action or cease and desist from any action as may be required to protect such interest. Any such emergency order must be reviewed by the Agency at its earliest opportunity, whereupon it may be confirmed or vacated by the Agency. An unreviewed or unconfirmed emergency order issued under this section will lapse within 10 days, and must so state.

#### **SECTION 404. Agency operations.**

**1. Quorum and voting.** Two Agency members shall constitute a quorum. The Chairman may vote and shall preside over all meetings. Action by the Agency should be by consensus, but if consensus cannot be achieved, shall be by majority vote. Whenever Agency action is by majority vote, majority and minority views shall be in writing, shall be retained in the records of the Agency, and shall be reported to the Council.

**2. Recusal.** No member of the Agency shall participate in any decision directly involving the gaming license, employment, or the direct monetary interest of his or her spouse, child, parent, or sibling, by blood or adoption. A member of the Agency may voluntarily recuse himself and decline to participate in any Agency action or decision when the member, in his own discretion, believes he could not act fairly or without bias, or that there would be an appearance that he could not so act.

**3. Vice-chairman; alterative and temporary members.** The Agency shall select one of its members to serve as vice-chairman. If the chairman is unavailable because of recusal or any other reason, the vice-chairman shall serve as acting chairman. If the vice-chairman is also unavailable, the third member of the Agency may serve as acting chairman. The alternate member shall serve temporarily as a member of the Agency only when necessary for the Agency to achieve a quorum. The Council may appoint additional alternative or temporary members as needed to obtain a quorum, on such terms as the Council deems appropriate.

#### **4. Meetings.**

**a.** Regular meetings of the Agency may be held upon such notice, or without notice, at such times and places as the Agency determines. Unless otherwise specified by the Agency, no notice of such regular meetings shall be necessary. Special meetings may be called by the Chairman or the Gaming Manager. Neither the business to be transacted at, nor the purpose of any regular or special meeting need be specified in any notice of the meeting.

**b.** Any action required or permitted to be taken at a meeting of the Agency may be taken without a meeting if each member signs a written consent to the action. Such consents shall be filed with the minutes of the Agency.

**c.** Members of the Agency may participate in a meeting by conference telephone or similar communications equipment by which all persons participating in the meeting can hear each other.

**SECTION 405. Powers and duties of gaming manager.** The gaming manager shall have the following powers and duties:

1. The gaming manager shall manage the day-to-day activities of the Agency and the Tribes' class II and III gaming operation as directed by the Agency, in a manner which insures all aspects of tribal gaming and agency operations comply with applicable law. If the Tribes hire a contract manager, the gaming manager shall be the Tribes' principal liaison with such contract manager.

2. The gaming manager shall have day-to-day responsibility for coordination of the functions of the Agency with those of the state under any compact, and with other agencies as necessary.

3. The gaming manager shall have initial responsibility for conducting or arranging for background investigations.

4. The gaming manager shall make recommendations to the Agency regarding the grant or denial of any license, the imposition of any penalty, the investigation of any complaint, or any other action within the jurisdiction of the Agency.

5. The gaming manager may be delegated the authority by the Agency to conduct any hearing, investigation, or inquiry. In the course of such activities, the gaming manager shall have authority to compel the production of any information or documents, and otherwise exercise the investigatory powers of the Agency.

6. The gaming manager shall perform such tasks as assigned by the Agency or the Council, and shall report to the Agency and to the Council.

7. If emergency action is required to protect the public interest in the integrity of gaming operations, and there is insufficient time to convene a meeting of the Agency, or to locate the chairman of the Agency, or any other member of the Agency, the gaming manager may issue in the name of the Agency any order which the Agency has the power to issue to any employee or contractor of the gaming operation or to any other person within the jurisdiction of the Tribes to take any action or cease and desist from any action as may be required to protect such interest. Any such emergency order must be reviewed by the Agency at its earliest opportunity, whereupon it may be confirmed or vacated by the Agency. An unreviewed or unconfirmed emergency order issued under this section will lapse within 10 days, and must so state.

## **CHAPTER 5: FINANCIAL MATTERS**

**SECTION 501. Application of net revenues.** Net revenues from any gaming activity are not to be used for any purpose other than:

1. to fund tribal government operations or programs, including the acquisition of land and water rights, both on and off the Reservation;

2. to provide for the general welfare of the Tribes and its members (including per capita conforming to the Act at 25 U.S.C. § 2710(b)(3));

3. to promote the Tribes' economic development;
4. to donate to charitable organizations;
5. to help fund operations of local government agencies, or
6. other purposes permitted under the Act.

**SECTION 502. Budgets.** The Agency shall propose to the Council an annual operating budget, and may in accordance with the budget employ staff necessary to fulfill its responsibilities, and may retain legal counsel, consultants, and other professional services, including investigative services, to assist it. Such expenses of the Agency shall be assessed against the gaming operation.

**SECTION 503. Audits.** The Agency and Council shall cause to be conducted independent audits of gaming operations at least annually, as required under 25 CFR § 522.4 (b) (3), and shall submit the results of those audits to the Commission. All gaming-related contracts that result in purchase of supplies, services, or concessions for \$25,000 in any year shall be specifically included within the scope of such audit. The Agency, Council, or Commission may call for special audits at any time.

## **CHAPTER 6: BACKGROUND INVESTIGATIONS FOR PRIMARY MANAGEMENT OFFICIALS AND KEY EMPLOYEES.**

**SECTION 601. Required background investigations.** All primary management officials and key employees of any class II or III gaming operation, including members of the Agency and the gaming manager, shall be subject to background investigations required by the Act, Commission regulations, this Ordinance, and any approved compact. Background investigations shall be conducted at the outset of employment, and shall be ongoing. The Tribes may, pursuant to compact, accord responsibility to the state or other entity with respect to background investigations. Otherwise, the Agency shall be directly responsible for such investigations.

**SECTION 602. Statement of Responsibilities.** The Tribes are responsible for the conduct of background investigations and suitability determinations. The Agency shall have primary responsibility for conducting and causing to be conducted the background investigations, except that the Council shall have such responsibility with respect to members of the Agency. Once a gaming manager has been fully investigated and approved, the Agency may delegate to the gaming manager the duty of conducting or causing to be conducted investigative work regarding other key employees and primary management officials, if any, subject to the review and approval of the Agency. Selection of the above approach is based on the necessity of assuring adequate oversight and investigation of all key employees and primary management officials.

**SECTION 602. Notices to applicants.** Any application forms for a key employee or primary management official shall include a privacy notice, a notice regarding penalties for false statements, and any other notices required by applicable law.

**SECTION 603. Information from applicants.** The Agency shall obtain from any candidate for primary management official or key employee at least the following information:

1. Full name, other names used (oral or written) , social security number(s), birth date, place of birth, citizenship, gender, all languages (spoken or written);
2. Currently and for the previous 5 years: all business and employment positions held, ownership interests in those businesses, business and residence addresses, and drivers license numbers;
3. The names and current addresses of at least three personal references, including one personal reference who was acquainted with the applicant during each period of residence listed under subsection 2 above;
4. Current business and residence telephone numbers;
5. A description of any existing and previous business relationship with Indian tribes, including ownership interests in those businesses;
6. A description of any existing and previous business relationships within the gaming industry, including ownership interests in those businesses;
7. The name and address of any licensing or regulatory agency with which the person has filed an application for a license or permit related to gaming, whether or not such license or permit was granted;
8. For each felony for which there is an ongoing prosecution or a conviction, the charge, the name and address of the court involved, and the date and disposition if any;
9. For each misdemeanor conviction or ongoing misdemeanor prosecution (excluding minor traffic violations) within 10 years of the date of the application, the name and address of the court involved and the date and disposition;
10. For each criminal charge (excluding minor traffic charges) whether or not there is a conviction, if such criminal charge is within 10 years of the date of the application and is not otherwise listed pursuant to subparagraph 8 or 9 above, the criminal charge, the name and address of the court involved and the date and disposition;
11. The name and address of any licensing or regulatory agency with which the person has filed an application for an occupational license or permit, whether or not such license or permit was granted;
12. A photograph;
13. Any other information the Agency or Council deems relevant; and
14. Fingerprints certified as adequate by a professional law enforcement agency. The Agency shall arrange for the obtaining and processing of fingerprints through the Tribes' Police Department.

### **SECTION 603. Rules regarding background investigations.**

**1. Confidentiality of third party sources.** The Tribes, the Agency, and all affiliated agents and employees shall keep confidential the identity of each person interviewed in the course of a background investigation.

**2. Retention of records.** The Tribes shall retain applications for employment and reports (if any) of background investigations for at least 3 years from the date of the date made or date of termination of employment. Such records shall be made available on request of the Council or Commission.

**3. Content of investigation report.** Background investigations must be of sufficient quality to enable the Agency to make a determination under section 604. All relevant information submitted by the applicant should be verified by written or oral communication and noted in the report. The investigation must include a thorough inquiry into the applicant's prior activities, criminal record, if any, and reputation, habits and associations. It must also include interviews with a sufficient number of knowledgeable people such as former employers, personal references, and others referred to in order to provide a basis for the Tribes to make a finding concerning the eligibility for employment in a gaming operation. The disposition of all potential problem areas noted and disqualifying information obtained must be thoroughly documented. An investigative report shall include:

- a. a statement of all steps taken in conducting the background investigation;
- b. a statement of the results obtained;
- c. a statement of the conclusions reached by the investigator; and
- d. the bases for those conclusions.

### **SECTION 604. Eligibility determinations.**

a. The Agency shall carefully review a person's prior activities, criminal record, if any, and reputation, habits and associations to make a finding concerning the eligibility of a key employee or a primary management official for involvement in a tribal gaming operation. If the Agency in the course of this review determines that such involvement may pose a threat to the public interest or to the effective regulation of gaming, or might create or enhance the dangers of unsuitable, unfair, or illegal practices and methods and activities in the conduct of gaming, no management contractor or tribal gaming operation shall employ that person in a key employee or primary management official position.

b. The Tribes' gaming operation shall not employ in a key employee or primary management official position a person who has supplied materially false or misleading information or who has omitted material information required by law.

## **SECTION 605. Reporting to the Commission.**

**1. Notification regarding background investigations and eligibility determinations.** The Agency shall forward to the Commission the following with respect to all persons investigated as candidates for primary management official or key employee:

- a. all application information described in section 602 above;
- b. the investigative report described in section 603 above;
- c. the Agency's eligibility determination described in section 604;
- d. a notification of the Agency's hiring decision;

**2. Procedure following decision to hire key employee or primary management official.**

a. When a key employee or a primary management official begins work at a gaming operation, the Agency shall:

(1) Forward to the Commission a complete application for employment that contains the notices and information listed in 25 CFR §§ 556.2 (privacy notice), 556.3 (notice regarding false statements), and 556.4 (background investigations); and

(2) Conduct a background investigation under 25 CFR part 556, and sections 601 through 604 of this Ordinance to determine the eligibility of the key employee or primary management official for continued employment in a gaming operation.

b. Upon completion of a background investigation and a determination of eligibility for employment in a gaming operation under subsections 604 and 605.2(a) (2) of this Ordinance, the Agency shall forward a report under 25 CFR § 556.5 (b) and section 603.3 of this Ordinance to the Commission within 60 days after an employee begins work or within 60 days of the approval of this Ordinance by the Chairman of the Commission. A gaming operation shall not employ a key employee or primary management official who does not have a license after 90 days.

c. During a 30-day period beginning when the Commission receives a report submitted under subsection 605.2(b) of this Ordinance, the Chairman of the Commission may request additional information from the Tribes concerning a key employee or a primary management official who is the subject of such report. Such a request shall suspend the 30-day period until the Chairman receives the additional information.

d. If, within the 30-day period described in subsection 605(2) (c) above, the Commission notifies the Tribes that it has no objection to the issuance of a license pursuant to a license application filed by a key employee or a primary management official for whom the Tribes has provided the required application and investigative report to the Commission, the Agency may go forward and issue a license to such applicant.

e. If, within the 30-day period described in subsection 605.2(c) above, the Commission provides the Tribes with a statement itemizing objections to the issuance of a license to a key employee or to a primary management official for whom the Tribes has provided the required application and investigative report to the Commission, the Tribes shall reconsider the application, taking into account the objections itemized by the Commission. The Tribes shall make the final decision whether to issue a license to such application.

f. If, after the issuance of a gaming license, the Commission notifies the Tribes that it has received reliable information indicating that a key employee or primary management official is ineligible for employment under applicable law, the Tribes shall suspend the license of such person and notify in writing the licensee of the suspension and the proposed revocation. The Tribes shall notify the licensee of the time and place for a hearing on the proposed revocation of a license. After a revocation hearing, the Tribes shall decide to revoke or to reinstate a gaming license. The Tribes shall notify the Commission of their decision.

## **CHAPTER 7: LICENSES**

**SECTION 701. Licenses.** All gaming employees shall be required to obtain a tribal license as a gaming employee from the Agency, and for that purpose the Agency shall conduct or cause to be conducted background investigations of all such employees and shall deny or revoke such licenses for any employee whose prior activities, criminal record, if any, or reputation, habits and associations pose a threat to the public interest or to the effective regulation of gaming, or create or enhance the dangers of unsuitable, unfair, or illegal practices and methods and activities in the conduct of gaming.

**SECTION 702. Background investigations.** Before issuing a license to a gaming employee, the Agency shall forward the results of any background investigation to the Commission.

**SECTION 703. Licensing decision.** If the Agency determines, on the basis of a background investigation and such other information as it may obtain, that the applicant is qualified for a gaming employee license, the Agency may, but shall not be required to issue such license. The Agency, at its sole discretion, may impose any qualifications to such license it deems appropriate, or may refuse to issue such license despite an applicant's qualifications.

**SECTION 704. Work permits.** All persons who are not gaming employees but work at any facility where authorized gaming occurs or is supervised or administered, must obtain a non-gaming work permit. Such work permits shall be issued upon determining that the employee is not a threat to the effective regulation of gaming and creates no risk or enhances no danger of unfair or illegal practices, methods or activities in the conduct of gaming on the Reservation. All applicants for work permits shall provide the information required in any compact.

**SECTION 705. Licensing of vendors, etc.** Any person or entity proposing to sell, lease, or otherwise provide electronic games of chance, other gaming devices, or gaming services to the Tribes are required to obtain a license from the Tribes.



The standards with respect to such licenses are the same as those applicable to gaming employees, except that if applicant is a corporation, trust, or partnership, applications must be made by any person or entity holding 10% or more of any beneficial or legal interest in such entity.

## **CHAPTER 8: HEARINGS AND APPEALS**

**SECTION 801. Licensing Decisions.** Any person whose application for a gaming-related license is denied, or whose license has been suspended or revoked, may request a hearing before the Agency by written request submitted within 15 days following receipt of notice of the action of the Agency. The Agency shall hold a hearing within 30 days of the filing of the request.

**SECTION 802. Patron disputes regarding particular wagers.** Any complaint by a patron regarding a particular wager must be brought to the attention of the gaming manager by the patron immediately, or such complaint is deemed waived. If the gaming manager cannot promptly resolve the dispute, the gaming manager shall take witness statements and reasonable steps to secure physical evidence, if any. The patron may request a hearing before the Agency by written request submitted within 72 hours from the events complained of, stating the relevant facts and circumstances in detail. The Agency shall hold a hearing within 30 days of the filing of the request.

**SECTION 803. Appeal to Council.** Any rulings of the Agency under sections 801 or 802 above, or assessment by the Agency of a penalty under chapter 9, may be appealed within 15 days of the Agency's decision to Council. The Council shall give appropriate deference to the expertise of the Agency. The Council shall either affirm the Agency's decision, or:

- a. in a licensing dispute, award or reinstate a license;
- b. in a patron dispute regarding a particular wager, order that a patron is entitled to a jackpot or payoff, or to return of the wagered amount; or
- c. regarding assessment of penalties, reverse, abate, reduce, or enhance a penalty assessed by the Agency.

The Council may impose conditions on the above awards of relief. In no event may the Council assess prejudgment interest, costs, or attorneys fees against the Tribe the Agency or any tribal employee, agent, or instrumentality. All determinations of the Council under this section are final, and subject to no further appeal.

**SECTION 804. Confidential information.** Where Agency action is based upon confidential information, which may not as a matter of law or policy be disclosed to the aggrieved person, such circumstances shall not be grounds for reversal of the Agency's decision, and the aggrieved person shall have no right to such confidential information in proceedings before either the Agency, Council, or any other forum.

The public interest in the integrity of gaming is such that the burden of proof with respect to gaming issues, especially regarding fitness for licensing, shall be upon the individual.

**SECTION 805. Hearing procedures.** The Agency or Council may adopt such additional procedures and rules for the conduct of hearings as either deems necessary or convenient so long as they are consistent with this Ordinance and other provisions of applicable law.

## **CHAPTER 9: PROHIBITED ACTS AND PENALTIES**

**SECTION 901. Prohibited acts.** It shall be a violation of this Ordinance for any person to:

1. Conduct or participate in any Class II or III gaming operation on the Reservation other than at licensed tribally-owned gaming facilities.

2. Receive, distribute, apply, or divert any property, funds proceeds, or other assets of the gaming operation to the benefit of any person except as authorized by this Ordinance, a compact or the Act.

3. Tamper with any equipment used in the conduct of tribal gaming operations, or do any other act in connection with tribal gaming operations, with the intent to cause any person to win or lose any wager other than in accordance with the publicly announced rules of such gaming operation.

4. Alter or misrepresent the outcome or other event on which wagers have been made after the outcome is made sure but before it is revealed to the players.

5. Place, increase, or decrease a bet or to determine the course of play after acquiring knowledge not available to all players of the outcome of the game or any event that affects the outcome of the game or which is the subject of the bet, or to aid anyone in acquiring such knowledge.

6. Claim, collect, or take, or attempt to claim, collect or take, money or anything of value in or from a gaming device, with intent to defraud, without having made a wager, or to claim, collect, or take an amount greater than the amount won.

7. Place, increase, or reduce a bet after acquiring knowledge of the outcome of the game or other event which is the subject of the bet, including past-posting, pressing, and pinching bets.

8. Manipulate, with the intent to cheat, any component of an electronic game of chance or gaming device in a manner contrary to the designed and normal operational purpose for the component.

9. Use other than coins or tokens approved by the Agency or other lawful legal tender, or use a coin not of the same denomination as the coin is intended to be used in the gaming device.

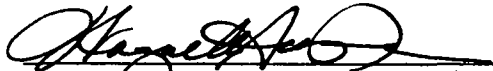
10. Possess or use any device or means to cheat while at the gaming facility.

11. Engage in class II or III gaming if under the age of 21, or assist, permit, or facilitate gaming by such person.

**SECTION 902. Penalties.** Any person who violates any provision of this Ordinance, including the provisions of a compact, shall be subject to civil penalties including exclusion from employment or other involvement with any tribal gaming operation, denial or revocation of a tribal gaming license, exclusion from attendance at any tribal gaming facility, possible exclusion from the Reservation if a non-member of the Tribes, or, with respect to any person subject to the jurisdiction of the Tribes to impose such fines, a fine of not more than \$5,000 for each such violation. The Agency established pursuant to this Ordinance shall have the jurisdiction to impose any such penalties on any person within the jurisdiction of the Tribes to impose such penalties, except with respect to exclusion from the Reservation, which the Agency may recommend for action by the Council.

#### C E R T I F I C A T I O N

At a duly held meeting of the governing body of the Fallon Paiute-Shoshone Tribes, consisting of seven members of which four (4) constitutes a quorum, there was present on the 11 day of APRIL 1995, and voted 5 in favor, 0 against, and / abstaining, in the foregoing amended Tribal Gaming Ordinance, according to the powers vested by the Fallon Paiute-Shoshone Tribes' Constitution and By-Laws.

  
Waynette Austin, Secretary/Treasurer  
Fallon Business Council